

House File 504 - Introduced

HOUSE FILE 504

BY JONES

A BILL FOR

1 An Act relating to prohibitions against a person acting as a
2 provider or as an employee, contractor, or subcontractor
3 of a provider of home and community-based services waiver
4 services under the Medicaid program.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 249A.29, Code 2023, is amended to read
2 as follows:

3 **249A.29 Home and community-based services waiver providers,**
4 **employees, and contractors — records checks.**

5 1. For purposes of this section and section 249A.30 unless
6 the context otherwise requires:

7 a. "Consumer" means an individual approved by the department
8 to receive services under a waiver.

9 b. "Contractor" means a person who contracts with a provider
10 or subcontracts with a contractor to act in any capacity
11 including but not limited to in a management or consulting
12 position or as a person directly responsible for providing
13 waiver services to a consumer or with direct access to a
14 consumer when a consumer is alone.

15 c. "Employee" means a person who is employed in this state
16 for wages by a provider in any capacity including but not
17 limited to in a management or consulting position or as a
18 person directly responsible for providing waiver services to a
19 consumer or with direct access to a consumer when the consumer
20 is alone.

21 ~~b.~~ d. "Provider" means an agency certified by the
22 department to provide services under a waiver.

23 ~~e.~~ e. "Waiver" means a home and community-based services
24 waiver approved by the federal government and implemented under
25 the medical assistance program.

26 2. If a person is being considered to be a provider by the
27 Medicaid program or by a provider for employment involving
28 direct responsibility for a consumer or with access to a
29 consumer when the consumer is alone as an employee or a
30 contractor, and if the person has been convicted of a crime or
31 has a record of founded child or dependent adult abuse, the
32 department shall perform an evaluation to determine whether the
33 crime or founded abuse warrants prohibition ~~of employment by~~
34 of the person as a provider or as an employee or contractor
35 of the provider. The department shall conduct criminal and

1 child and dependent adult abuse records checks of the person in
2 this state and may conduct these checks in other states. The
3 records checks and evaluations required by this section shall
4 be performed in accordance with procedures adopted for this
5 purpose by the department.

6 3. If the department determines that ~~a person employed~~
7 by a provider or an employee or a contractor of a provider
8 has committed a crime or has a record of founded abuse, the
9 department shall perform an evaluation to determine whether
10 prohibition of the ~~person's employment~~ person as a provider,
11 employee, or contractor is warranted.

12 4. In an evaluation, the department shall consider the
13 nature and seriousness of the crime or founded abuse in
14 relation to the position sought or held, the time elapsed since
15 the commission of the crime or founded abuse, the circumstances
16 under which the crime or founded abuse was committed, the
17 degree of rehabilitation, the likelihood that the person will
18 commit the crime or founded abuse again, and the number of
19 crimes or founded abuses committed by the person involved. The
20 department may permit a person who is evaluated to be ~~employed~~
21 a provider or an employee or contractor of a provider, or to
22 continue to be employed by a provider or to be an employee or
23 contractor of the provider if the person complies with the
24 department's conditions relating to ~~the employment~~ being a
25 provider or an employee or contractor of a provider, which may
26 include completion of additional training.

27 5. If the department determines that the person has
28 committed a crime or has a record of founded abuse which
29 warrants prohibition of ~~employment~~ as a provider or as an
30 employee or contractor of a provider, the person shall not
31 be ~~employed by a provider~~ or an employee or contractor of a
32 provider.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to home and community-based services
2 (HCBS) waiver providers, employees, and contractors relative
3 to the results of criminal and child or dependent adult abuse
4 (abuse) records checks.

5 Under current law, if a person who is being considered for
6 employment by an HCBS provider, and the employment involves
7 direct responsibility for a consumer of waiver services or with
8 access to the consumer when the consumer is alone, and if the
9 person has been convicted of a crime or has a record of founded
10 abuse, the department of health and human services (HHS) shall
11 perform an evaluation to determine whether the crime or founded
12 abuse warrants prohibition of the employment of the person
13 by the provider. In an evaluation, HHS considers a number
14 of factors including the nature and seriousness of the crime
15 or founded abuse in relation to the position sought or held,
16 the time that has elapsed since the commission of the crime or
17 founded abuse, the circumstances of the crime or founded abuse,
18 the degree of rehabilitation, the likelihood that the person
19 will commit the crime or founded abuse again, and the number
20 of crimes or founded abuses committed by the person involved.
21 The person may be employed or continue to be employed by the
22 provider if the person complies with HHS conditions, or the
23 person may be prohibited from being employed based upon the
24 evaluation.

25 Under the bill, the record checks, evaluations, and HHS
26 determinations apply to not only employees of providers
27 with direct responsibility for or access to consumers, but
28 also to the providers and the employees, contractors, and
29 subcontractors of providers in any capacity including those
30 in management or consulting positions. Under the bill, if a
31 person is being considered as a provider, or as an employee,
32 contractor, or subcontractor of a provider, and if the person
33 has been convicted of a crime or has a record of founded abuse,
34 HHS shall perform an evaluation to determine whether the
35 crime or founded abuse warrants prohibition of the person as

1 a provider or as an employee, contractor, or subcontractor of
2 the provider. As under current law, if HHS determines that
3 a provider or an employee, contractor, or subcontractor of
4 a provider has committed a crime or has a record of founded
5 abuse, HHS shall perform an evaluation to determine whether
6 prohibition of the person as a provider, employee, contractor,
7 or subcontractor is warranted. After the evaluation, HHS may
8 allow a provider or an employee, contractor, or subcontractor
9 of a provider to be or to continue to be a provider or an
10 employee, contractor, or subcontractor of the provider if
11 the person complies with HHS's conditions. However, if
12 HHS determines that the person has committed a crime or has
13 a record of founded abuse which warrants prohibition as a
14 provider or as an employee, contractor, or subcontractor of a
15 provider, the person shall not be a provider or an employee,
16 contractor, or subcontractor of a provider.

17 The bill defines "employee" and "contractor" including a
18 subcontractor for purposes of the bill.